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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2669 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes.
2. To be referred to the Reporter or not? Yes.

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3. Whether Their Lordships wish to see the fair copy of the judgement? No.
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No.
5. Whether it is to be circulated to the Civil Judge? No.

R.I. PATEL

Versus

STATE OF GUJARAT

Appearance:

MR PS PATEL for Petitioner
NR. H.L. JANI, for the respondents.

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 14/11/97

ORAL JUDGEMENT

Heard learned counsel for the parties.

2. The petitioner is a curator in the office of

respondent no. 2. In this special civil application the prayer is made to grant the following reliefs :

"(1) allow the petitioner to cross Efficiency Bar,

(ii) to regularize the service of the petitioner as Junior Keeper from 1976 and give consequential benefits,

(iii) grant selection grade to the petitioner and to fix seniority of the petitioner after Mr. Gandhi who was junior keeper."

3. After filing this special civil application the petitioner has amended the petition and two more prayers were incorporated which reads as under :

"(iv) to quash and set aside the order dated 19.3.1985 passed by the Director of Museum, Vadodara, stopping the petitioner from crossing the Efficiency Bar;

(v) to hold that the action on the part of the authorities in delating the name of the petitioner in the final seniority list of Curators is illegal and authorized; and further to direct the authorities to include the name of the petitioner at serial no. 2 in the said final seniority list after the name of Shri N.N. Gandhi;"

4. After filing of the petition under the order dated 18th November, 1985 the Government has corrected the adverse remarks of the petitioner for the years 1980-81 and 1982-82. Under the order dated 28th January, 1984 the petitioner is allowed to cross Efficiency Bar with effect from 1984.

5. I have been informed by the learned Counsel for the parties that the State Government has constituted a Tribunal for adjudication of service disputes of the employees. But the jurisdiction of the Tribunal is limited to only certain disputes and not all. I have been informed further that the disputes in nature namely withholding of crossing of Efficiency Bar, seniority dispute, disputes pertaining to adverse remarks or regularization of service or grant of selection grade etc. are not within the purview of the Tribunal. It is really sorry state of affairs that even a small matter where the employees have made grievance that he is

illegally deprived of crossing of Efficiency Bar or he has not been given selection grade or that adverse remarks were wrongly given etc. is to be dealt with by this Court.

6. In such matters, the State should provide alternate redressal forum by bringing these disputes in the purview or jurisdiction of the service tribunal or by constituting high power committee at the Secretariat level at Gandhinagar so that the employees may not have to straightway rush to this Court. The valuable time of this Court should not be consumed in such matters. Legitimate, genuine and meritorious grievance of employees/officers may be dealt with and decided firstly either by the Tribunal or High Power Committee and only after decision is given in such matters by the tribunal or high power committee in the appropriate cases the employees/officers may take resort to remedy including approaching this Court. But first remedy should not have been by way of writ petition under Article 226 of the Constitution of India directly before this Court. There is hierarchy of the officers in the department of the Government. In almost all the service matter, for redressal of their grievances, the employees/officers are approaching directly to this Court. In case, this course is permitted, it will otherwise also be not in the interest of the department as well as the employees/officers. It is a fact of which a judicial notice can be taken that in most of the writ petitions filed before this Court by the employees/officers affidavit-in-reply has not been filed by the Government. In case the employees/officers approach this Court after their grievances are being considered either by the Tribunal or High Power Committee then certainly this Court will be in a better position to appreciate controversy even in the cases where affidavit-in-reply has not been filed by the Government. In such cases, this Court will have before it a reasoned order and it has to examine only whether the reasons given to decline to accept the grievance of the employees/officers are legal and correct or not. This matter is of the category where for such a small grievance the petitioner has to come to before this Court. After filing of this petition some relief has been granted to the petitioner. But still, some of his grievances still survive. Interest of justice would meet if this special civil application is disposed of with a direction to the respondent no. 1 to constitute a high power committee of the Secretary of the concerned department, Law Secretary and the Director of the Department to examine the grievances of the petitioner, to be made by him by way of representation

within 15 days from the date of receipt of the copy of this order and that representation has to be decided by the Committee within three months from the date of the receipt thereof. The petitioner may also be given opportunity of personal hearing if he so desires. If the grievance or any of the grievances are/is not acceptable then a reasoned order may be passed and copy of the same may be sent to the petitioner by registered post A.D. Liberty to the petitioner for revival of this petition by filing simple note in case of difficulties. Rule stands disposed of as aforesaid, with no order as to costs.

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